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SERVICE DATE – MARCH 4, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 643X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–IN LAPORTE, PORTER
AND STARKE COUNTIES, IN

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: March 3, 2004

By decision and notice of interim trail use or abandonment served on February 20, 2004, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903, the abandonment by CSX Transportation, Inc. (CSXT), of its 32.97-mile line of railroad in the Western Region, Chicago Division, Wabash Subdivision, extending from milepost CF 0.63, at LaCrosse, to milepost CF 15.23, at Wellsboro, and from milepost CI 212.55, at North Judson, to milepost CI 230.92, at Malden, in LaPorte, Porter and Starke Counties, IN, subject to trail use, public use, historic preservation, and standard employee protective conditions. The abandonment authorization was scheduled to become effective on March 22, 2004, unless an offer of financial assistance (OFA) was filed on or before March 1, 2004.

On March 1, 2004, the Incorporated Town of North Judson (the Town) timely filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27 to purchase the entire line for \$1,200,000.

An OFA to acquire a line for continued rail service need not be detailed, but an offeror must show that it is financially responsible and that the offer is reasonable. See Conrail Abandonments Under NERSA, 365 I.C.C. 472 (1981). As a government entity, the Town is presumed to be financially responsible. See 49 CFR 1152.27(c)(1)(ii)(B). The Town is thus found to be financially responsible.

The Town's offer is less than CSXT's estimated valuation of \$1,769,950 (\$1,050,550 for the track materials and \$719,400 for the land). The Town states that its offer is based on \$1,050,550 for track materials and \$149,450 for the market value of the land. According to the Town, CSXT did not provide adequate support for its land value because it did not submit the original acquisition documents to verify the land it owns in fee and the land for which it has only a railroad easement, and did not provide any appraisal of the land. The Town has estimated that the land for which CSXT has marketable title has a value of \$149,450. Consistent with 49 U.S.C. 10904(c) and 49 CFR

1152.27(c)(1)(ii)(C), the Town has explained the basis for the disparity between its offer and the carrier's estimate of the purchase or acquisition price.

Because the Town, a financially responsible entity, has offered financial assistance, the effective date of the decision and notice authorizing the abandonment will be postponed.

Any person filing a request to set terms and conditions must pay the requisite filing fee, set forth at 49 CFR 1002.2(f)(26), which currently is \$16,800. An original and 10 copies of the request should be submitted along with the fee, in an envelope bearing the docket number of this proceeding, along with the words "Attention: Office of Proceedings, Request to Set Terms and Conditions" in the lower left hand corner.

Appeals to this decision are governed by 49 CFR 1011.2(a)(7). Any appeal must be filed within 10 days of the service date of this decision and will be heard by the entire Board.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The effective date of the decision and notice authorizing the abandonment is postponed to permit the OFA process under 49 U.S.C. 10904 and 49 CFR 1152.27 to proceed.

2. If CSXT and the Town cannot agree on the purchase price, either party may request the Board to establish the terms and conditions of the purchase price on or before March 31, 2004. If no agreement is reached and no request is submitted by that date, the Board will serve a decision vacating this decision and allowing the abandonment authorization to become effective.

3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary